IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.8.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.599 of 2007

A.C.Bharathi .. Petitioner

Vs

1. The Commissioner of Police
   Chennai Police
   Chennai - 600 008.

2. The Government of Tamil Nadu
   rep. by its Secretary
   Prohibition and Excise Department
   Fort St. George
   Chennai-600 009.

3. The Superintendent
   Central Prison, Puzhal
   Chennai. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus calling for the records relating to the proceedings of the first respondent in memo No.153 of 2007 dated 10.4.2007 against my husband, Paulraj, S/o Chandran aged abourt 28 years, under Tamil Nadu Act 14 of 1982 and quash the same and consequently direct the respondents herein to produce the detenu who has been now detained under Act 14 of 1982 in Central Prison, Puzhal, Chennai. before this court and set him at liberty.

For Petitioner : Mr.S.Panneerselvan
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

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ORDER

(Order of this Court was made by P.D.DINAKARAN,J.)

The petitioner calls in question legality of the order of detention 10.4.2007 passed by the first respondent ordering detention of her husband - Paulraj, son of Chandran, aged about 28 years (hereinafter referred to as "the detenu"). The aforesaid detenu was detained under Section 3(2) of

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the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video Pirates Act, 1982 (in short "the Act") branding him as a "Goonda".

2. The order of detention dated 10.4.2007 was passed on the basis of ground case in Crime No.224 of 2007 for alleged commission of offences under Sections 341, 336, 427, 397 and 506(ii) of the Indian Penal Code. The allegation against the detenu was that on 2.4.2007 at about 3.15 p.m., when one Sekar, was returning to his house, after attending his work in a private company, the detenu and one Subramani, who were standing at the Tambu Samy Street Junction, wrongfully restrained him, pulled him, beat him and the detenu threatened him to hand over the gold ring and the cash with him. As Sekar refused to hand over the same, the detenu took out a knife and rushed to cut. Sekar warded off the attack with his right hand and during the course knife fell over his right hand and caused bleeding injury to him. The detenu tried to remove his gold ring and kicked him over his abdomen. The detenu snatched the gold ring and also took away Rs.350/- from the shirt pocket of Sekar. Sekar, noticing that the detenu and Subramani were trying to escape, raised hue and cry. The detenu and his associate threatened the public who came to the spot that they would be killed and the detenu picked up stones from the roadside and pelted the same against the detenu. The nearby shopkeepers closed down their shops out of fear of danger to their lives and properties. At the same time the police personnel attached to G3, Kilpauk Police Station came to the spot and apprehended the detenu and his associate. That apart, the detaining authority also took note of the four adverse cases pending against the detenu in Crime Nos.3731 of 2005, 64 of 2007, 65 of 2007 and 195 of 2007 all for the offence punishable under Section 397 of the Indian Penal Code. The detaining authority having satisfied that the detenu is habitually committing the crime and his activities are prejudicial to maintenance of public order, passed the impugned order branding him as a "Goonda".

3. The main contention of the learned counsel for the petitioner is that even though the detaining authority has observed that the detenu was arrested and remanded in Crime Nos.64, 65 and 224 of 2007 on the file of G3 Kilpauk Police Station, the materials furnished to the detenu disclose that the detenu was remanded only with reference to Crime No.224 of 2007 and no materials were furnished to him to show that he was remanded in Crime Nos.64 and 65 of 2007.

4. We have perused the records produced before us. In the order of detention, the detaining authority observed that the detenu is in remand in G3 Kilpauk Police Station in Crime Nos.64, 65 and 224 of 2007. As per the materials furnished to the detenu, he was remanded only in Crime No.244 of 2007 and no material was furnished to the detenu by the detaining authority informing the detenu that he was also in remand with reference to Crime Nos.64 and 65 of 2007. The non-furnishing of such materials to the detenu vitiates the order of detention.

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We are, therefore, inclined to allow this petition. The order of detention dated 10.4.2007 is quashed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

sasi

To:

1. The Commissioner of Police
   Chennai Police
   Chennai - 600 008.

2. The Secretary to Government
   Prohibition and Excise Department
   State of Tamil Nadu
   Fort St. George
   Chennai-600 009.

3. The Superintendent
   Central Prison, Puzhal
   Chennai.

4. The Public Prosecutor
   High court Madras.

5. The Joint Secretary to Government
   Public (Law & Order) Department
   Fort St.George, Madras 9.

+ 1 cc to Mr.S.panneerselvan Advocate SR.NO.53567

JSK(CO)
RD 12.9.07

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